

MESSAGE FROM THE GOVERNOR.

The Chair laid before the Senate the following message from the Governor:

Executive Office,
Austin, Texas, May 1, 1897.

To the Senate:

Senate bill No. 87 is herewith returned without approval. It is a lengthy act to provide for the protection of domestic animals by the creation of a livestock sanitary commission, and is intended to supersede the present law governing this subject. No useful purpose will be subserved by a statement of its provisions in detail, but it will be sufficient for this message to state the objections to the bill.

The act appropriates \$10,000 for its execution, and this amount may be expended in two years. During the past two years the livestock interests were well and thoroughly guarded at a cost of only \$3315.76, and in my judgment the sum appropriated by this bill is excessive.

Under the provisions of the bill, the Livestock Sanitary Commission, and the veterinarian appointed by them, are authorized to examine animals thought to be affected with any infectious or contagious disease of a malignant character, and if found by them to be so affected, they may condemn such animals to be killed, and in that event shall direct the sheriff of the county to take possession of them and have their value assessed by three disinterested persons. These appraisers are required to report their action to the county judge, who shall cause a warrant to be issued on the county treasurer, payable to the owner of the animals, out of the general fund, for the value of the stock so fixed, less the fees of the sheriff, and if the owner is unknown the amount becomes a part of the general fund of the county. No notice is required to be given the owner before condemnation of his property, and, particularly, he is not given an opportunity to appear before the appraisers when its value is to be assessed, but the proceedings throughout are without notice, without a hearing and essentially *ex parte*. If, at the time of condemnation, the owner be unknown, opportunity within a reasonable time thereafter is not given to establish ownership, but the property is confiscated. The Constitution declares that no citizen shall be deprived of his property except by due course

of the law of the land, and some of these proceedings are not of that character. *Armstrong v. Traylor*, 87 Texas, 598.

Most of the penal provisions of the bill are believed to be harsh, unreasonable and confiscatory. By section 8 it is provided that any person who shall, in violation of the rules of the Commission, drive or in any manner move any livestock across any quarantine line shall be fined in a sum not less than \$10 nor more than \$50 for each head of livestock so driven or moved across said line, and said fine shall constitute a charge or lien upon said livestock. By section 9 it is provided that any person who shall knowingly bring into this State any livestock which is infected with any contagious or infectious disease of a malignant character, or any livestock which has been exposed to such disease, shall be fined in a sum not less than \$100 nor more than \$500 for each animal so brought into the State, and such fine shall be a lien on the animals. By section 10 it is provided that any person who owns or is in possession of any livestock which is reported to be affected with a contagious disease, who shall refuse to allow the Commissioners or veterinarian to examine such stock, or shall hinder or obstruct such examination, shall be fined not less than \$100 and not more than \$500 for each animal so owned, and the fine shall be a lien on said property. By section 11 it is provided that any person who shall have in his possession any livestock affected with a contagious disease, knowing the same to be so affected, who shall permit such stock to run at large, or who shall keep such stock where stock not his own and not so affected may be exposed to its contagion, shall be fined not less than \$100 nor more than \$500 for each head of stock, which shall be a lien thereon. The price of stock ordinarily affected by this bill will probably vary from \$10 to \$15 per head, and none will exceed \$25 per head. The lowest fine imposed in any of the sections noted is \$10 per head, and, consequently, scarcely any case will arise where the entire property will not be taken to discharge the fine. The bill will necessarily affect large bunches of cattle rather than isolated heads, and under three sections of the bill the lowest fine imposed on the owner of a herd of 100 will be \$10,000, or, measured by the highest price of cattle, \$7500 beyond the value of the herd. Section 10 is particularly

obnoxious and oppressive. Under that section, if a person owns or is in possession of stock merely *reported* to be affected with a contagious disease, and refuses to permit it to be examined, or shall hinder or obstruct such examination, he may have the entire herd confiscated, though in truth it may be wholly free from such disease. Anxious to promote the livestock interests of the State, my opinion in matters of detail would be yielded to the Legislature, but the objections to the bill being constitutional or resting upon principle, it can neither be approved nor permitted to become a law.

C. A. CULBERSON.